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November 17, 2005

Ted Dunbar, Chief Residential Appraiser
Stark County Auditor
110 Central Plaza So., Ste. 220
Canton, OH 44702

Re: Mass Appraisal for Transition Neighborhoods
Our file no. M101.00264

Dear Mr. Dunbar:

I have before me your request for a legal opinion concerning tax appraisals in areas and neighborhoods where recent sales data include one or more properties that, while otherwise comparable, result in sale prices that substantially deviate from past patterns.

The appraisal of property for purposes of taxation is subject to Article XII, section 2 of the Ohio Constitution, which provides that "[l]and and improvements thereon shall be taxed by uniform rule according to value." By long-settled principle, the assessment of property must be based on its "true value in money." *Meyer v. Cuyahoga County Bd. of Revision* (1979), 58 Ohio St.2d 328, 331. The true value in money of any property is a determination of fact for the county auditor, in the first instance, assessed "in accordance with sections 5713.03, 5713.31, and 5715.01 of the Revised Code and with the rules and methods applicable to the auditor's county adopted, prescribed, and promulgated by the tax commissioner." R.C. 5713.01(B). "The fair market value of property for tax purposes is a question of fact, primarily to be determined by the taxing authorities." *Parkwood Iron & Metal, Inc. v. Cuyahoga County Bd. of Revision* (1976), 48 Ohio St.2d 6.

The best (but not conclusive) evidence of an individual property's true value in money is the actual sale price of that property in a recent arms-length transaction. *Meyer* at 333. Thus, it sometimes happens that a property which is valued according to conditions generally obtaining in a community is actually sold for a price substantially higher than its appraised value. In that event, the individual property may be revalued for tax purposes according to the newly-available best evidence of its actual value in money, i.e., the recent sale price. Such a revaluation does not discriminate against the property owner (whose property is now valued substantially higher than his or her immediate neighbors), nor does it require a general revaluation of all properties in the neighborhood. "The requirement of Section 2, Article XII of the Ohio Constitution ... is not violated when a county board of revision pursuant to R.C. 5715.19 reappraises an individual parcel based upon evidence of the most recent sale price of that parcel." *Meyer*, syllabus paragraph 1.

In the scenario you pose, it would not violate any constitutional or statutory provision for individual properties to be reappraised upward in the event they were sold for an unexpectedly high price. Doing so would only acknowledge the actual value in money of such a property, according to the best evidence, without disturbing the existing appraisals of surrounding property assessed on some other, different basis, i.e., without any recent sale data for those other properties.

The reverse of this situation would not apply. That is, if some improved properties were appraised at their increased and true value, while surrounding properties were systematically and intentionally undervalued, this would violate the equal protection rights of the taxpayer whose property was appraised at its true and higher value. *Boothe Financial Corp. v. Lindley* (1983), 6 Ohio St.3d 247, syllabus paragraph 1; *Murray & Co. Marina v. Erie Cty. Bd. of Revision* (6th Dist. 1997), 123 Ohio App.3d 166.

"The rule is well settled that a taxpayer, although assessed on not more than full value, may be unlawfully discriminated against by undervaluation of property of the same class, belonging to others. * * * But, unless it is shown that the undervaluation was intentional and systematic, unequal assessment will not be held to violate the equality clause." *Southern Railway Co. v. Watts* (1923), 260 U.S. 519, 526.

Because the fair market value of property for tax purposes is a question of fact, and because each property is unique, the taxing authorities must be allowed some latitude in achieving the "practical equality" which is the standard to be applied on review. *Meyer* at 335. This standard is satisfied when the tax system is free of "systematic and intentional departures from this principle." *Id.*

From the foregoing, I have concluded and you are so advised that the county auditor need not reappraise an entire area or neighborhood based on the appearance of recent sales data for some individual lots within that area or neighborhood, so long as all appraisals are rationally based on a system designed to achieve practical equality of taxation. By the same principle, the county auditor may not assess properties based on an intentional and systematic undervaluation of the properties' true value in money.

If you have any further questions concerning these matters, or if you have any additional information that you feel may be relevant, please do not hesitate to contact me.

Very truly yours,



Ross Rhodes
Assistant Prosecuting Attorney

cc: Kim R. Perez